

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1918.

No. 502.

THE UNITED STATES OF AMERICA, PLAINTIFF IN
ERROR,

vs.

THE CHASE NATIONAL BANK.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT.

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Original. Print.

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United States Circuit Court of Appeals for the Second Circuit.
United States of America, plaintiff in error (plaintiff below), vs.
The Chase National Bank, defendant in error (defendant below).
Transcript of Record. Error to the United States District Court
for the Southern District of New York.

1

WRIT OF ERROR.

UNITED STATES OF AMERICA, ss:

*The President of the United States of America, to the judges of the
District Court of the United States, for the Southern District of
New York, greeting:*

Because, in the record and proceedings, as also in the rendition of
the judgment of a plea which is in the District Court, before you, or
some of you, between United States of America, plaintiff, and The
Chase National Bank, defendant, a manifest error hath happened,
to the great damage of the said United States of America as is said
and appears by its complaint, we, being willing that such error, if
any hath been, should be duly corrected, and full and speedy justice
done to the parties aforesaid in this behalf, do command you, if
judgment be therein given, that then under your seal, distinctly
2 and openly, you send the record and proceedings aforesaid, with
all things concerning the same, to the judges of the United States
Circuit Court of Appeals for the Second Circuit, at the city of New
York, together with this writ, so that you have the same at the said
place, before the judges aforesaid, on the 28th day of November,
1917, that the record and proceedings aforesaid being inspected, the
said judges of the United States Circuit Court of Appeals for the
Second Circuit may cause further to be done therein, to correct that
error, what of right and according to the law and custom of the
United States ought to be done.

Witness, the Honorable Edward D. White, Chief Justice of the
United States, this 30th day of October, in the year of our Lord one
thousand nine hundred and seventeen and of the Independence of the
United States the one hundred and forty-second.

[L. s.]

ALEX. GILCHRIST, JR.,
*Clerk of the District Court of the
United States of America, for
the Southern District of New York,
in the Second Circuit.*

The foregoing writ is hereby allowed.

J. M. MAYER,
U. S. District Judge.

on the Treasurer of the United States, payable to the order of E. V. Sumner, 2d Lt., 2d Cav., A. Q. M., and purporting to be drawn
5 by E. V. Sumner, Acting Quartermaster, U. S. A., and to be endorsed by E. V. Sumner, 2d Lt., 2d Cav., A. Q. M., the Howard National Bank, and the defendant; a copy of said draft and the indorsements on the back thereof is hereto attached and marked Exhibit A, and made a part hereof;

Third. That at the date of the presentation of said draft by the defendant to the Treasurer of the United States, the defendant was a depository of the funds of the United States of America, and payment of said draft to the defendant was thereupon made by the plaintiff, by passing a credit for the amount of said draft to the defendant upon the accounts of the defendant, as depository of the funds of the plaintiff;

Fourth. That the name of said E. V. Sumner, 2d Lt., 2d Cav., A. Q. M., endorsed upon the back of said draft, was forged and had been wrongfully and fraudulently written upon the same by a person other than the said E. V. Sumner, without his knowledge or consent, and no part of the proceeds of said draft were ever received by him;

Fifth. That the payment of said draft made by the plaintiff to the defendant, as described in paragraph three of this complaint, was made under a mistake of fact and without knowledge that the signature of the said E. V. Sumner, 2d Lt., 2d Cav., A. Q. M., payee thereof, had been forged upon the back of said draft;

Sixth. That the plaintiff has duly requested the defendant to repay
6 to it the amount of said draft, to wit, \$3,571.47, but the defendant has failed and refused to pay the same or any part thereof to the plaintiff.

Wherefore, the plaintiff demands judgment against the defendant in the sum of \$3,571.47, with interest thereon from the 18th day of December, 1914, together with the costs and disbursements of this action.

H. SNOWDEN MARSHALL,

*United States Attorney for the Southern District of New York, Attorney for Plaintiff,
Office and Post Office Address, U. S. Court
and Post Office Bldg., Borough of Manhattan,
City of New York.*

STATE OF NEW YORK,

County of New York, Southern District of New York, ss:

Earl B. Barnes, being duly sworn, deposes and says that he is an assistant United States attorney for the Southern District of New York;

That he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as

to the matters therein stated to be alleged on information and belief, and as to those matters, he believes it to be true;

That the reason why this verification is made by deponent and not by plaintiff is because plaintiff is a corporation sovereign;

7. That the sources of deponent's information and the grounds for his belief as to the allegations therein contained are communications from the Treasury Department of the plaintiff and a photographic copy of the draft mentioned in the complaint.

EARL B. BARNES.

Sworn to before me this 3rd day of April, 1916.

[SEAL.]

S. H. RICHARDS,

Notary Public, New York County No. 66.

EXHIBIT A.

Face.

War	Office of the Quartermaster,	December
Quartermaster	Fort Ethan Allen, Vermont.	15, 1914.
		444
Thesaur Amer		
(Shield)	TREASURER OF THE UNITED STATES	15-51
Septent Sigil	Pay to the order	
	of E. V. Sumner, 2d Lt.,	
	2d Cav., AQM	\$3571.47.
	Dec. 18	
	Thirty-five hundred seventy one & 47/100 dollars.	Object for
	which drawn:	

Vo. No. Cash transfers.

E. V. SUMNER,

Acting Quartermaster, U. S. A. 21739.

Back.

Form Approved by the
Comptroller of the
Treasury

January 27, 1913.

This check must be indorsed on the line below by the person in whose favor it is drawn, and the name must be spelled exactly the same as it is on the face of the check.

If indorsement is made by mark (X) it must be witnessed by two persons who can write, giving their place of residence in full.

E. V. SUMNER,

(Sign on this line)

2d Lt., 2d Cav., AQM.

Pay Chase National Bank
New York, or Order,
Restrictive endorsements guaranteed.
Howard Nat'l Bank,
58-3 Burlington, Vt. 58-3,
M. T. Rutter, Cashier.

Received payment from
The Treasurer of the United States
Dec. 16, 1914.
1-74 The Chase National Bank 1-74
Of the City of New York.

9

AMENDED ANSWER.

District Court of the United States, Southern District of New York.

UNITED STATES OF AMERICA, plaintiff,
against
CHASE NATIONAL BANK, defendant.

As and for an amended answer to the complaint herein, the defendant above-named, by Rushmore, Bisbee & Stern, its attorneys:

First. Admits the allegations contained in the clause of said complainant designated "First."

Second. Upon information and belief, denies each and every allegation contained in the clause of said complaint designated "Second," except that it admits and alleges that on the 16th day of December, 1914, a draft or check of the purport and containing signatures as alleged in said clause "Second" of said complaint, was received by it from the Howard National Bank of Burlington, Vermont, for collection for its account; that, at said time, both the Howard National Bank and the plaintiff herein maintained a deposit account with the defendant, and that upon receipt of said draft or check, in accordance with the instructions of the plaintiff herein, the said draft or check was, on said date, paid by charging the amount thereof to the account of the plaintiff herein, whereupon said amount
10 was forthwith credited to the account of the said Howard National Bank; and that notice of said payment was, on said date, duly given to the plaintiff and, at the same time, the said draft or check was delivered to the plaintiff.

Third. Alleges, upon information and belief, that, in due course, after the receipt by the plaintiff of said notice of the payment of

said draft or check, the plaintiff duly credited the amount thereof to the defendant in its account with the defendant; that notice of payment of the draft or check was received by the plaintiff on or about the 17th day of December, 1914.

Fourth. Denies that it has any knowledge or information sufficient to form a belief as to whether or not the name E. V. Sumner, appearing upon the back of said draft or check, was forged, and whether or not the said name was written thereon by a person other than the said E. V. Sumner, without his knowledge or consent; and, as to whether or not any of the proceeds of the said draft or check were ever received by said E. V. Sumner.

Upon information and belief, defendant alleges that the name E. V. Sumner as the drawer of said draft or check, was written by the same person as was the name E. V. Sumner appearing on the back of said draft or check, and that the letters, words, and figures, E. V. Sumner, 2d Lt., 2d Cav., AQM, describing the payee of said draft or check, were intended to describe and represent the same individual whose name purports to be that of the drawer of the said draft or check, and that the words and figures "2d Lt., 2d Cav., AQM"

11 are a contraction for "Second Lieutenant, Second Cavalry, Acting Quartermaster;" that E. V. Sumner, second lieutenant of the Second United States Cavalry, was, on December 15th, 1914, which is the date of said draft, Acting Quartermaster of the United States Army at Fort Ethan Allen, Vermont; that as such Acting Quartermaster the said E. V. Sumner, second lieutenant of the Second Cavalry, was authorized to draw drafts and checks upon the Treasurer of the United States, who, on the 15th day of December, 1914, was the duly appointed and acting disbursing officer of the plaintiff herein.

Except as in this clause Fourth expressly admitted, defendant denies each and every allegation contained in the clauses of said complaint designated "Third" and "Fourth."

Fifth. Denies that it has any knowledge or information sufficient to form a belief as to any of the allegations contained in the clause of said complaint designated "Fifth."

Sixth. Admits the allegations contained in the clause of said complaint designated "Sixth."

Further answering said complaint, and for a second and separate defense thereto, the defendant alleges as follows:

Seventh. Denies that it has any knowledge or information sufficient to form a belief as to any of the allegations contained in the clause of the complaint designated "Fifth."

12 Eighth. Upon information and belief, that at all the times hereinafter mentioned, the Treasurer of the United States was and is the disbursing officer for the Treasury Department of the United States of America, the plaintiff herein, and therefore, as such was and is the disbursing officer for the plaintiff; and that all drafts and checks drawn by quartermasters or acting quartermasters of the United States Army for funds which such quartermasters or acting quartermasters were entitled to disburse, were drawn by such

officials upon the Treasurer of the United States; that quartermaster and acting quartermasters are comprehended within the term "disbursing officers" of the United States; and that at all times herein-after mentioned it was the duty of the said treasurer to honor and pay drafts and checks drawn by E. V. Sumner, second lieutenant of the Second Cavalry of the United States Army as Acting Quartermaster.

Ninth. That, on or about the 11th day of February, 1913, the plaintiff herein, acting through its Treasury Department, opened a general deposit account with the defendant; that, in connection with the opening of said account, the plaintiff instructed the defendant to, and the defendant agreed that it would, pay drafts and checks of disbursing officers of the United States drawn upon the Treasurer of the United States when presented in the regular course of business, and charge the same to the plaintiff's deposit account and forward drafts and checks so paid to the United States Treasurer; that such drafts and checks should be so paid by the defendant by charging the same to the deposit account of the plaintiff with the defendant, and that payment so made should result, as between the plaintiff and the defendant, in the same rights and responsibilities

13 as when the defendant similarly pay checks or drafts drawn upon another bank by one maintaining a deposit account therein. Shortly after the opening of said deposit account by the plaintiff with the defendant, and on or about the 21st day of February, 1913, it was also agreed between the plaintiff and the defendant that the checks and drafts paid by the defendant would be examined by the plaintiff promptly upon the receipt thereof and that, in the event of the rejection or disputing of any thereof, the plaintiff would notify the defendant not later than the day succeeding that of the receipt of such check or draft; also that the plaintiff would advise the defendant by telegram in case any check or draft for \$500 or more should be so rejected or disputed. In connection with the opening of said account, the plaintiff also instructed the defendant to endorse or stamp upon each check or draft paid for its account the following:

"Received payment from The Treasurer of the United States (Date Paid) (Bank No.) Name of Bank (Bank No.) Location."

Tenth. That, on or about the 16th day of December, 1914, the defendant received in the usual course of business from the Howard National Bank of Burlington, Vermont, the draft or check mentioned and set forth in the complaint herein; that the said draft or check was drawn upon a form supplied for the purpose of the plaintiff to E. V. Sumner, second lieutenant, Second Cavalry of the United States Army, Acting Quartermaster, at Fort Ethan Allen, in

14 the State of Vermont; that when said check or draft was received by the defendant the amount thereof had been paid by said Howard National Bank, at Burlington, in the State of Vermont, as defendant is informed and believes, on the 15th day of December,

1914, to the person who presented the same to said bank, which person was a private or petty officer in the United States Army who had previously presented to said Howard National Bank at the same place checks or drafts signed by the said E. V. Sumner, second lieutenant, Second Cavalry of the United States Army, Acting Quartermaster, and had received payment thereof in behalf of the said E. V. Sumner; that, in accordance with defendant's agreement with the plaintiff upon receipt of said check or draft, defendant charged the same to the account of the plaintiff with the defendant, stamped or endorsed the said check or draft as directed by the plaintiff, and, upon the same day, duly forwarded the said check or draft by mail to the treasurer of the plaintiff, together with a statement showing that the said draft had been paid by the defendant by deducting the amount thereof from the credit balance in the account of the plaintiff with the defendant. Upon information and belief, that the plaintiff received the said cheque or draft, together with said notice of payment thereof, on or about the 17th day of December, 1914, and that, in due course, and on the 18th day of December, 1914, the plaintiff duly credited the defendant with the amount of said draft in the plaintiff's books of account.

Eleventh. That the defendant was not advised or notified by the plaintiff of the rejection or disputing of said draft or check in accordance with the agreement between the plaintiff and the defendant as aforesaid, or at all, or that the signature or endorsement of said draft or check was forged, or that the plaintiff claimed that the signature or endorsement of said draft or check was forged, and defendant had no notice thereof until on or about the 2nd day of January, 1915, and that such notice or advice was then received by defendant from the Howard National Bank and not from the plaintiff herein.

Twelfth. Upon information and belief, that the said check or draft purports to be drawn or made by one E. V. Sumner, Acting Quartermaster of the United States Army; that said E. V. Sumner was, on December 15, 1914, Acting Quartermaster of the United States Army at Fort Ethan Allen near Burlington, in the State of Vermont, and that said E. V. Sumner was at said time also second lieutenant of the Second Cavalry of the United States Army.

Thirteenth. Upon information and belief, that the letters "U. S. A." under the name of the drawer of the said draft are a contraction for "United States Army," and that the words and figures "2d Lt., 2d Cav., AQM" following the name of the payee of the said draft, both upon the face and upon the back thereof, are a contraction for "Second Lieutenant, Second Cavalry, Acting Quartermaster."

Further answering said complaint, and for a third and separate defense thereto, the defendant alleges as follows:

16 Fourteenth. Realleges, repeats and reiterates each and every allegation and denial contained in the clauses of this amended answer designated "Seventh," "Eighth," "Ninth," "Tenth," "Twelfth," and "Thirteenth."

Fifteenth. That the said check or draft purports to be payable to the order of the same person who purports to be the drawer thereof; that the said draft purports to be endorsed by the payee thereof and that the said draft did not become a completed instrument and was not payable until endorsed by such payee. Upon information and belief, defendant alleges that the said draft or check was drawn and signed by the same person who endorsed the same.

Further answering said complaint, and for a fourth and separate defense thereto, the defendant alleges as follows:

Sixteenth. Realleges, repeats and reiterates each and every allegation and denial contained in the clause of this amended answer designated "Seventh," "Eighth," "Ninth," "Tenth," "Twelfth," and "Thirteenth."

Seventeenth. Upon information and belief, that said draft or check was issued and became a completed negotiable instrument in the State of Vermont when the said Howard National Bank paid the said forger the amount thereof at its office in Burlington, in the State of Vermont, on the 15th day of December, 1914, as aforesaid.

Eighteenth. Upon information and belief, that ever since 17 the first day of June, 1913, the public acts of the State of Vermont, constituting the statute law of said State, have provided, among other things, by Act No. 99 of the public acts of said State passed by the general assembly of said State at its twenty-second biennial session which commenced October 2, 1912, and ended February 22, 1913, entitled "An act to make uniform the law of negotiable instruments," in Article i of Title 1 of said act, relating to the form and interpretation of negotiable instruments and providing when the same are to be deemed payable to bearer, as follows:

"Sec. 9. When Payable to Bearer. The instrument is payable to bearer:

- (1) When it is expressed to be so payable; or
- (2) When it is payable to a person named therein or bearer; or
- (3) When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or
- (4) When the name of the payee does not purport to be the name of any person; or
- (5) When the only or last endorsement is an endorsement in blank."

Nineteenth. Upon information and belief, that the said draft or check was payable to bearer within the meaning of the laws of the State of Vermont and also under the law of the State of New 18 York and of the United States, and that the defendant and the said Howard National Bank each became the holder thereof in due course and in good faith for value without notice of any infirmity in the instrument or defect in the title of the person negotiating the same.

Further answering said complaint, and for a fifth and separate defense thereto, the defendant alleges as follows:

Twentieth. Realleges, repeats and reiterates each and every allegation and denial contained in the clauses of this amended answer designated "Seventh," "Eighth," "Ninth," "Tenth," "Twelfth" and "Thirteenth."

Twenty-first. That the defendant was not advised or notified by the plaintiff of the rejection or disputing of the said draft or check, or that the signature or endorsement of said draft or check was forged, or that the plaintiff claimed that the signature or endorsement of said check or draft was forged and that the defendant had no notice thereof until on or about the second day of January, 1915, and that such notice or advice was then received by defendant from the Howard National Bank and not from the plaintiff herein.

Twenty-second. Upon information and belief that the plaintiff was negligent in not promptly making actual discovery of the forgery mentioned in the complaint and in not promptly notifying the defendant of such forgery, and that negligence and failure to
19 give such notice on the part of the plaintiff was greatly to the prejudice of the defendant and prevented the defendant from taking the prompt measures which otherwise it would have taken for the apprehension of such forger and the recovery from him of said monies which he had wrongfully obtained as aforesaid by means of said draft or check, and defendant alleges, upon information and belief, that it would have recovered said monies from the said forger but for the negligence aforesaid of the plaintiff.

Wherefore defendant demands judgment, dismissing the said complaint with costs.

RUSHMORE, BISBEE & STERN,
Attorneys for Defendant.

*Office and P. O. Address, 61 Broadway, Borough of Manhattan,
City and State of New York.*

STATE OF NEW YORK,
County of New York, ss:

William E. Purdy, being duly sworn, says that he is the assistant cashier of the Chase National Bank, the defendant named in the foregoing amended answer; that he has read the said amended answer and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein contained and stated to be alleged upon information and belief and that as to those matters he believes it to be true.

This verification is not made by the defendant personally because defendant is a corporation.

20 The sources of deponent's information and the grounds of his belief as to all matters contained in said amended answer and not stated of his own knowledge are correspondence and other papers in the possession of the defendant and information obtained by de-

ponent in connection with the performance of his duties as such assistant cashier.

WILLIAM E. PURDY.

Sworn to before me this 26th day of July, 1916.

[SEAL.]

CHARLES S. MARTIN,

Notary Public,

New York County No. 72. New York Register No. 8191.

Opinion.

United States District Court, Southern District of New York.

UNITED STATES OF AMERICA
against
CHASE NATIONAL BANK.

This is an action at law to recover from the defendant, a bank, the amount of a cheque or sight draft drawn under the following circumstances: Lieutenant Sumner was an officer in the United States Army, detailed to the Quartermaster's Department and authorized as such to draw upon funds placed by the Treasury Department at his disposal. One Howard, a sergeant in the Quartermaster's Department, had been detailed to assist Sumner for some time past, and had learned his method of availing himself of these funds. While Sumner was temporarily away upon leave, Howard took one of the regulation drafts of the Treasury Department, filled it to the order of Sumner and forged Sumner's name as drawer. Having then forged the endorsement of Sumner's name in blank, he cashed the cheque over the counter of the Howard National Bank of Vermont. This bank endorsed the cheque to the defendant, which upon delivery presented it to the Treasurer of the United States, who paid it. Howard's forgery was soon discovered and the plaintiff thereupon sued the defendant to obtain a refund of the amount so paid.

Other circumstances are admitted by the stipulation under which the cause was tried, but they are relevant only upon the question of the negligence of the several parties and as such do not require statement here.

Joseph A. Burdeau, for the plaintiff.

Henry Root Stern, for the defendant.

LEARNED HAND, D. J.: No one disputes since *Price vs. Neal*, 3 Burr., 1354, that a drawee may not recover money paid upon paper forged by the drawer; on the other hand, no one disputes that if the bill be once lawfully signed and uttered no innocent holder may collect the bill with a forged indorsement and retain the proceeds. The question at bar presents the case where the forger not only forges the putative drawer's name, but makes the bill payable to the drawer and then forges the endorsement as well.

22 A bill made in the form of this cheque, even if valid, is incomplete and not commercial paper at all until it has been endorsed and delivered to some person other than the drawer. Until then it is in form only an order to pay to the maker and no obligation can arise between the maker as maker and himself as payee. This, after some confusion, was decided in the case of notes, *Wood vs. Harper*, 2 Exch., 13; *Brown vs. De Winter*, 6 C. B., 336, and is now unquestioned law; *Moses vs. Lawrence County Bank*, 149 U. S., 298, *Negotiable Instruments Law*, §320. It is so obvious as not to justify expatiation; and the same reasoning applies to bills.

Therefore, until Howard endorsed Summer's name the cheque did not even on its face exist as a legal instrument, any more than an undelivered deed: its factum was in abeyance. When he did endorse it in blank and deliver it to the Vermont bank it was an order to pay the sum to bearer. The drawer's name was forged, but the two added forgeries of the same name were of no more significance than if the forger had signed Summer's name three times as drawer. The rule is, however, not confined to cases where the paper is payable to drawer or maker. It is generally held that if the drawer selects as payee the name of even a real person, and forges not only the drawer's name but the payee's, a presenting holder may keep the proceeds. *Phillips vs. Mercantile National Bank*, 140 N. Y., 556; *Bartlett vs. First National Bank*, 247 Ill., 490; *Snyder vs. Corn Exchange National Bank*, 221 Pa. St., 599; *Coggill vs. American Exchange Bank*, 1 N. Y., 113; *Trust Company vs. Hamilton Bank*, 127 App. Div., 515. *National Bank of Commerce vs. United States*, 224 Fed. R. 679, though at first blush it seems to be an exception, in fact went off on another point, page 681, and recognizes the general rule.

It is true that the decisions are not unanimous. *First National Bank vs. N. Y. Bank*, 152 Ill., 296; *McCall vs. Corning*, 3 La. Am., 409, and it takes only slight evidence of participation to defeat the holder, *Bank of Danvers vs. Bank of Salem*, 151 Mass., 280, but it is none the less true that where the foregoing facts are badly presented, the better considered cases protect the presenting holder. Yet when the forger draws a note to the name of a payee, either real or fictitious, and the drawee or maker accepts it supposing the name to be real, no subsequent negotiation of it by the forger gives a valid title and if the drawee pays, he may recover. *Shipman vs. Bank of N. Y.*, 126 N. Y., 318; *Seaboard Bank vs. Bank of America*, 193 N. Y., 26; *Jordan Marsh & Co. vs. Bank*, 201 Mass., 397; *Tolman vs. American National Bank*, 22 R. I., 462. These last cases are not contrary in principle; they depend upon the fact that the drawee or maker has intended as payee a person other than the forger. If the maker really intends to make the forger payee, even under a false name, his indorsement is good. *Roberts vs. Coleman*, 141 Mass., 231. It is quite true that *Bank of England vs. Vagliano*, 1891 App. Cas., 107, does not accord with these cases, and with deference it is doubtful whether the judgments of Lord Bowen below and Lords Bramwell and Field

above are not to be preferred where the matter is still open. The effect of the decision was indeed to compel Vagliano to pay to the order of Glyka, the clerk, when he had agreed only to pay to the order of Petridi & Co. Moreover, the result of the decision
24 has been hardly more than to add to §28 a clause, which had been supposed to be already a part of the common law. The case in any event has nothing to do with that now at bar.

Price vs. Neal, *supra*, has been a source of much difference of opinion. Lord Mansfield's principle that the loss should fall where it chances, while often commended (The doctrine of Price vs. Neal, 4 How. L. R., 297), has not escaped question. It must be confessed that it is hard upon that theory to explain the uniform recovery where a valid bill has been stolen and forged and the presenting holder has innocently collected the money. The usual explanation is that having converted the bill, the holder has been guilty of a wrong at law and it is not equally innocent with the drawee, but surely that is a conventional distinction, not properly applicable to an action supposed to turn upon natural justice. Moreover, it is difficult to see why the drawee is not as much of a converter as the presenting holder. He has as little right to meddle with the property of the actual holder as the presenting holder and his putative payment is no payment at all. Such difficulties may best be left till they arise, because in the case at bar there was neither an actual bill nor a genuine holder. As the bill was a forgery and created no obligation, it could make not the slightest difference to the drawee what endorsements it bore, or whether or not they were genuine. The bill being void could never be presented by the true owner, assuming the payee ever became its true owner. Now, in the case of a genuine
bill stolen and forged, the wrong done the drawee who pays
25 on the forged endorsement is only that he must pay again, a wrong which can not arise when the bill is a forgery. Hence the forgery of the endorsement was wholly irrelevant even if the bill had been stolen from the actual payee.

But the bill never had been delivered and if it had been genuine the forgery would have been equally irrelevant. Any holder or the drawer might fill a genuine bill with the names of distinguished persons and forge their endorsements without affecting his rights or the drawee's obligation, because the drawee looks only to the drawer and to the title of the holder from the person to whom or for whom the drawer actually first delivered the bill. The actual holder may pass his actual title by any name that he has been called in the bill and he may add any endorsements to real persons whom he may choose if he avoids delivery to them. It is not to be thought that the secret purpose of any holder in endorsing the name of a person not a holder is an exception to the universal rule that secret intent is never material. The explanation is that as respects the drawee all such endorsements are not part of the contract, since a drawee cannot hold endorsers, and need only an authentic drawer and his true appointee by order, however named.

From no aspect can those cases be supported which treat the forgery of the payee's name as relevant. Indeed, from the report in Burrows it seems likely that in Price vs. Neal, Lee, the forger, forged the endorsements along with the bill itself.

A verdict will be directed for the defendant.

April 21, 1917.

L. H.,
- D. J.

Extract of minutes.

At a stated term of the District Court of the United States, for the Southern District of New York, held at the United States court rooms, in the U. S. Courthouse and Post Office Building, in the borough of Manhattan, city of New York, on the 28th day of March, in the year of our Lord one thousand nine hundred and seventeen.

Present: Honorable Learned Hand, District Judge.

UNITED STATES	}	L15-139.
vs.		
CHASE NATIONAL BANK.		

Now comes the plaintiff by John B. Walker, assistant U. S. attorney, and moves the trial of this cause. Likewise comes the defendant by Rushmore, Bisbee & Stern, its attorneys, and Henry R. Stern and Jas. F. Sandifur, of counsel. By stipulation of counsel on both sides, Harry Nichols impaneled and sworn as a jury of one. At the close of the testimony on both sides, each side moves for a direction of a verdict.

Thereafter on Saturday, April 21, 1917, by direction of the court, verdict for the defendant. See opinion on file.

An extract from the minutes.

[SEAL.]

ALEX. GILCHRIST, Jr.,
Clerk.

Judgment.

District Court of the United States, for the Southern District of New York.

UNITED STATES OF AMERICA,	}
plaintiff,	
against	
THE CHASE NATIONAL BANK,	
defendant.	

The issues in this cause having been brought on for trial on the 28th day of March, 1917, at a stated term of the District Court of

the United States, for the Southern District of New York, before Hon. Learned Hand and a jury, and said cause having been tried on said day, and the plaintiff and the defendant having thereupon at the close of the case moved for a direction of a verdict, and the court after due deliberation having duly directed a verdict for the defendant on the 21st day of April, 1917.

Now, on motion of Rushmore, Bisbee & Stern, attorneys for the defendant, it is

Ordered, adjudged and decree that the defendant have judgment against the plaintiff on the merits.

Dated, May 14th, 1917.

ALEX. GILCHRIST, Jr.,
Clerk.

28

Bill of exceptions.

United States District Court, Southern District of New York.
Before Hon. Learned Hand, J., and jury.

UNITED STATES
vs.
CHASE NATIONAL BANK. }

NEW YORK, March 28, 1917—3 p. m.

APPEARANCES.

H. Snowden Marshall, Esq., United States attorney, for the Government;

Joseph A. Burdeau, Esq., John E. Walker, Esq., of counsel, assistant U. S. attorneys.

Rushmore, Bisbee & Stern, Esqs., attorneys for defendant;
Henry R. Stern, Esq., James F. Sandefur, Esq., of counsel.

The court: This cause came on for hearing before me and a jury of one by stipulation between the parties; said jury of one being duly sworn and impaneled, the cause is opened by counsel for the United States and for the defendant respectively. Thereupon the plaintiff offers in evidence stipulation of facts dated March 2, 1917, which is duly received and marked Plaintiff's Exhibit 1, and a supplementary stipulation, dated March 2, 1917, which is received and marked Plaintiff's Exhibit 2.

United States District Court, for the Southern District of New York.

UNITED STATES OF AMERICA, plaintiff,

against

THE CHASE NATIONAL BANK, defendant.

The parties hereto hereby stipulate, by their respective attorneys, that, for the purposes of the trial of the above-entitled action, the following facts are admitted, and are deemed to be evidence in this action:

1. That at all the times herein mentioned, the plaintiff was and is a corporation sovereign.

2. That at all the times herein mentioned, the defendant was and is an association organized for and transacting the business of banking in the city, State and Southern District of New York, under and pursuant to the provisions of the acts of Congress in such case made and provided.

30 3. That at all the times herein mentioned, Howard National Bank was and is an association organized for and transacting the business of banking in Burlington, State and District of Vermont, under and pursuant to the acts of Congress in such case made and provided.

4. That at all the times herein mentioned, the Treasurer of the United States was the general disbursing officer for the Treasury Department of the United States of America, the plaintiff herein, and as such was the agent and representative of the plaintiff in paying drafts and checks drawn by the other disbursing officers of the plaintiff; and that all drafts and checks drawn by quartermasters or acting quartermasters of the United States Army for funds which such quartermasters or acting quartermasters were entitled to disburse, were drawn by such officials upon the Treasurer of the United States; that quartermasters and acting quartermasters of the United States Army were comprehended within the term "disbursing officers" of the United States, and that at all such times it was the duty of the said Treasurer to honor and pay drafts and checks drawn upon him by E. V. Sumner, second lieutenant of the Second Cavalry of the United States Army, as acting quartermaster. That the said Howard National Bank knew said E. V. Sumner and on many occasions prior to December 15, 1914, had cashed checks or drafts drawn by him as such acting quartermaster upon said Treasurer, and bearing his genuine signature and endorsement. That the last
31 check or draft drawn by said E. V. Sumner, as such acting quartermaster upon said Treasurer, prior to December 15, 1914, was check or draft No. 443, dated October 20, 1914; that from October 20, 1914, to January 20, 1915, Captain Wilson G. Heaton was quartermaster at Fort Ethan Allen, near Burlington, Vermont,

and as such quartermaster drew checks or drafts upon the Treasurer of the plaintiff; that on January 20, 1915, said E. V. Sumner as such acting quartermaster drew two such checks or drafts, one payable to the order of the Burlington Wood Company for \$214 in payment for wood for the Second Cavalry of the United States Army in the field, and the other transferring the balance claimed by the plaintiff to be held to his credit in the plaintiff's Treasury to said Captain Wilson G. Heaton.

5. That on the 11th day of February, 1913, the plaintiff herein, acting through its Treasury Department, opened a general deposit account with the defendant. In connection with the opening of such account and during the continuance of the same, there was certain correspondence between the plaintiff and the defendant herein, and the plaintiff delivered to the defendant certain circulars or circular letters. Said correspondence and circulars or circular letters contained all the agreements between the said parties in relation to such account, and copies thereof, marked "Exhibits A to L," both inclusive, are hereto annexed and made a part hereof. Exhibits "A," "G," "I," and "K" are copies of letters sent by the plaintiff to the defendant each of which was received by the defendant on or about the day immediately following the date thereof. Exhibits "B," "C," "H" and "L" are copies or
32 duplicates of circulars or circular letters sent by the plaintiff to the defendant and received by the defendant on or about their respective dates, except that the circular of which Exhibit "B" is a copy was enclosed with the letter of which Exhibit "A" is a copy, and was received by the defendant on or about January 30, 1913. Exhibit "D" is a copy of a telegram from the defendant to the plaintiff, sent by defendant and received by the plaintiff on or about the day of its date, to wit, January 31, 1913. Exhibit "E" contains copies of two telegrams, the first from the plaintiff to the defendant and the second from the defendant to the plaintiff, both sent and received on or about January 31, 1913. Exhibits "F" and "J" are copies of letters sent by the defendant to plaintiff on their respective dates and received by plaintiff on the days following their respective dates.

6. That on the 15th day of December, 1914, one John A. Howard, a first-class sergeant and pay clerk of the Quartermaster's Corps of the United States Army, who was stationed at Fort Ethan Allen in the State of Vermont, negotiated to the said Howard National Bank at Burlington, Vermont, the check or draft, mentioned in the complaint, of which the following is a photographic copy:

WAR
QUARTERMASTER

Office of the Quartermaster,
Fort Ethan Allen, Vermont.

December 15, 1914

444



Treasurer of the United States

PAY TO THE ORDER OF E. V. Sumner, 2d Lt., 2d Cav., AQM \$3571.47

Dec. 18

Thirty five hundred seventy one & 47/100#

DOLLARS

No. Cash transfers

(SIGNED) E. V. Sumner

ACTING QUARTERMASTER, U. S. A.

21739

OBJECT FOR WHICH DRAWN

33 At the time said Howard negotiated said check or draft as aforesaid, it bore the purported endorsement of the payee therein named, as shown on the photographic copy below. That thereafter and on the same day, the Howard National Bank endorsed the said draft or check to the order of and forwarded it to, its correspondent, the said The Chase National Bank, which bank thereupon stamped the back of said draft or check and forwarded it to the Treasurer of the United States, at Washington, D. C.; that the following is a photographic copy of the back of said draft or check after said endorsement and stamp were placed thereon:

FORM APPROVED BY THE
COMPTROLLER OF THE TREASURY
JANUARY 27, 1913

This check must be indorsed on the line below by the person in whose favor it is drawn, and the name must be spelled exactly the same as it is on the face of the check.

If indorsement is made by mark (X) it must be witnessed by two persons who can write, giving their place of residence in full.

(SIGNED) *E. V. Sumner*

(Sign on this line.)

2d Lt., 2d Cav., AQM

Pay Chase National Bank
NEW YORK, OR ORDER

Restrictive Endorsements Board ?

HOWARD NAT'L BANK
58-3 BURLINGTON, VT. 58-3
H. T. RUTTER, Cashier.

OF THE CITY OF NEW YORK.

1-74 THE CHASE NATIONAL BANK 1-74

DEC 16 '94

THE TREASURER OF THE UNITED STATES

Received Payment ?

34 That the letters, words and figures, "2d Lt., 2d Cav., AQM.," appearing on said draft are, wherever they appear, a contraction for "second lieutenant, Second Cavalry, Acting Quartermaster," and the letters "U. S. A." under the name of the drawer of said draft are a contraction for "United States Army."

That the said John A. Howard was designated sergeant, first class, Quartermaster Corps. A sergeant, first class, Quartermaster Corps, might have several duties. Such grade is comparatively a new designation in the United States Army. The said John A. Howard was one of about six men who were designated by the plaintiff to
35 take a course of instruction in Washington, D. C., to fit them to fill places as pay clerks, or to fill positions as finance clerks in the offices of quartermasters at posts of the United States Army. At the time the said E. V. Sumner became Acting Quartermaster of the United States Army in charge of the office of the quartermaster of the United States Army at Fort Ethan Allen, near Burlington, Vermont, the said John A. Howard was acting in the capacity of finance clerk in said office and had been in that position since the summer of 1913, he having relieved a pay clerk. His duties were handling all papers relating to finance that came into said office, he acting as pay clerk to the plaintiff's disbursing officer at said Army post and, in fact, handled all monetary papers concerned in the transactions of the department of the plaintiff's quartermaster at said Fort Ethan Allen, near Burlington, Vermont. That the said Howard National Bank, on December 15, 1914, knew said John A. Howard as such clerk.

That the said Howard National Bank, not knowing or suspecting that the said draft or check, of which a photographic copy is set forth above, or any signature thereto or endorsement thereon was forged, and not knowing or suspecting any irregularity in connection with the making or indorsement of the said draft or check or defect in the title thereto or with respect to the right of the said Howard to negotiate the same, or to receive the proceeds of such negotiation, or otherwise with respect thereto, cashed the said draft or check and paid the said Howard the face amount thereof, to wit, \$3,571.47, when it was presented by him, as aforesaid, on December 15, 1914.

In making this stipulation the plaintiff does not concede that
36 the Howard National Bank should not have suspected that the signature of the maker and the signature of the endorser were forged. On the 15th day of December, 1914, after cashing said draft or check, as aforesaid, the said Howard National Bank endorsed it to the order of the Chase National Bank, as appears from the photographic copy hereinabove set forth, and forwarded it by mail to the defendant bank for collection for its account and for deposit to the credit of its account. That on the 16th day of December, 1914, the defendant, at its office in the city of New York received said draft or check in the usual course of business from the said Howard National Bank for collection for its account and for deposit as aforesaid. That, at said time, both the said Howard National Bank and

the plaintiff herein maintained deposit accounts with the defendant, and that, upon receipt of said instrument, the amount thereof was, on the 16th day of December, 1914, credited by the defendant to the account of the Howard National Bank and charged by the defendant against the account of the plaintiff. Thereupon and on the same day the defendant stamped the back of said instrument as appears from the photographic copy of the back thereof hereinabove set forth, and that said instrument, together with a notice, showing that the defendant had become the holder thereof and that the defendant had deducted the amount thereof from the credit balance in the account of the plaintiff with the defendant, was, on said date, duly forwarded by mail by the defendant to the Treasurer of the plaintiff, at the city of Washington, in the District of Columbia. That in due course and on the 17th day of December, 1914, the Treasurer of
37 the plaintiff received the said draft or check, together with said notice, and thereafter, to wit, on the 18th day of December, 1914, duly paid the same by crediting the amount thereof to the defendant in its books of account.

7. That on December 16, 1914, the amount of said instrument was duly credited by the defendant to the Howard National Bank and due notice was given by it to said Howard National Bank; thereafter and before the discovery of said forgery as hereinabove stated, and prior to December 31, 1914, the said The Chase National Bank paid the said Howard National Bank or upon its order, and charged the same to the account of said Howard National Bank, various sums of money in excess of the amount to the credit of the account of the said Howard National Bank with the defendant, at either the time or immediately after the time defendant received said draft or check and credited the amount thereof to the account of the said Howard National Bank, as aforesaid, but the credit of the said Howard National Bank in said account with the defendant, during said period, was always in excess of the amount of said draft or check, owing to deposits made by it after the amount of said draft or check was so credited to its account on December 16, 1914; that in connection with said account, no special or specific direction or directions as to the application of deposits or as to credits or charges were given by the said Howard National Bank and no special appropriation or appropriations were made by the defendant.

8. That the said instrument, purporting to be a draft or check, was drawn on a form supplied by the plaintiff to said E. V. Sumner, second lieutenant, Second Cavalry of the United States
38 Army, acting quartermaster at Fort Ethan Allen, near Burlington, in the State of Vermont, for use in drawing checks or drafts upon the Treasurer of the United States; that the words appearing above the name "E. V. Sumner" on the back of said instrument forged as aforesaid were printed thereon, and that the same printed words appeared on the backs of all checks or drafts furnished by the plaintiff to said E. V. Sumner.

9. That the name of said "E. V. Sumner," written above the printed words, "Acting Quartermaster, U. S. A.," as the drawer of said draft or check and the name of said "E. V. Sumner," above the typewritten letters and figures, "2d Lt., 2 Cav., AQM.," endorsed upon the back of said draft or check were forged and were wrongfully and fraudulently written upon the same by said Howard; and that the typewritten name or designation of the payee, "E. V. Sumner, 2d Lt., 8d Cav., AQM.," was so written in by said Howard, and that all the acts of the said Howard in connection with said draft or check were part of a scheme on his part wrongfully and fraudulently to obtain the amount of said draft or check and to convert the same to his own use. That none of the monies so received by said Howard from the Howard National Bank ever came into the possession of said E. V. Sumner and the said E. V. Sumner never derived any personal or official benefit from the transaction.

10. That the amount of said draft or check, to wit, \$3,571.47, was greater than the amount for which said E. V. Sumner, second lieutenant, Second Cavalry of the United States Army, acting
39 quartermaster, was entitled to draw upon the Treasurer of the plaintiff on the 15th, 16th, 17th, or 18th of December, 1914, and the officials of the plaintiff's Treasury Department sent him a notice on December 24, 1914, that his account was overdrawn and inquired why it was overdrawn. He replied to the plaintiff that Howard, his clerk, was on a furlough and he would reply to the inquiry as soon as Howard returned. On December 29, 1914, the plaintiff sent said E. V. Sumner a telegram, requesting him to expedite the matter. Upon receipt of such telegram, he investigated his papers and accounts and discovered said forgery and notified the said Howard National Bank of said forgery on December 31, 1914.

11. That the defendant did not know that the signature of the said E. V. Sumner, over the words and letters "Acting Quartermaster, U. S. A.," as maker of said draft or check and over the letters and figures, "2d Lt., 2d Cav., AQM.," as the endorser of said draft or check, or in either of said capacities, was forged and had no notice of any such forgery or any irregularity connected therewith until the 2d day of January, 1915, when it was advised thereof by the Howard National Bank by a letter of the Howard National Bank dated December 31, 1914, of which letter a copy, marked "Exhibit M.," is hereto annexed and made a part hereof. Said Howard National Bank, in turn, had received notice of such forgery from said E. V. Sumner on the 31st day of December, 1914, but had not received any such notice from the plaintiff or its Treasury Department.

40 That the defendant, on January 2, 1915, forwarded a copy of said letter, of which "Exhibit M.," hereto annexed is a copy, to the plaintiff in a letter dated January 2, 1915, of which a copy marked "Exhibit N.," is hereto annexed and made a part hereof. That said letter, of which "Exhibit N.," hereto annexed is a copy, with the enclosure therein mentioned, was received by the plaintiff on January 4, 1915, January 3, 1915, being a Sunday, and was replied to in

due course, by the plaintiff by a letter dated January 4, 1915, which was received by the defendant on January 5, 1915, and of which last-mentioned letter a copy, marked "Exhibit O," is hereto annexed and made a part hereof. That the defendant was not advised that the plaintiff claimed that the signature or endorsement of said check or draft was forged and received no notice whatever from the plaintiff in connection with such forgery until the receipt of the last-mentioned letter, as aforesaid. In answer to the last-mentioned letter, the defendant on January 8, 1915, wrote a letter to the plaintiff, of which a copy, marked "Exhibit P" is hereto annexed and made a part hereof, which was received by the plaintiff on or about January 9, 1915. In answer to the last-mentioned letter, the plaintiff on or about January 12, 1915, wrote and sent to the defendant a letter, of which a copy, marked "Exhibit Q" is hereto annexed and made a part hereof, received by the defendant on or about January 13, 1915, and in reply to the last-mentioned letter the defendant on January 15, 1915, wrote and sent to the plaintiff a letter, of which a copy, marked "Exhibit R," is hereto annexed and made a part hereof, which was received by the plaintiff on or about January 16, 1915.

12. That since the first day of June, 1913, the negotiable
41 instruments laws of Vermont and New York, constituting a part of the statute laws of said States, have contained the following provisions (the section number of the New York statute being placed in parenthesis after the corresponding number of the Vermont statute):

Section 1 (20). "Form of negotiable instrument. An instrument to be negotiable must conform to the following requirements:

(1) It must be in writing and signed by the maker or drawer;
(2) Must contain an unconditional promise or order to pay a sum certain in money;

(3) Must be payable on demand, or at a fixed or determinable future time;

(4) Must be payable to order or to bearer; and

(5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty."

* * * * *

Section 9 (28). "When payable to bearer. The instrument is payable to bearer:

(1) When it is expressed to be so payable; or

(2) When it is payable to a person named therein or bearer; or

(3) When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or

(4) When the name of the payee does not purport to be the name of any person; or

42 (5) When the only or last indorsement is an indorsement in blank."

* * * * *

Section 15 (34). "Incomplete instrument not delivered. Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery."

* * * * *

Section 16 (35). "Delivery; when effectual; when presumed. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting, or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved."

* * * * *

43 Section 23 (42). "Forged signature, effect of. When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority."

* * * * *

Section 25 (51). "Consideration; what constitutes. Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value; and is deemed such whether the instrument is payable on demand or at future time."

Section 30 (60). "What constituted negotiation. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order, it is negotiated by the indorsement of the holder completed by delivery."

* * * * *

Section 52 (91). "What constitutes a holder in due course. A holder in due course is a holder who has taken the instrument under the following conditions:

- (1) That it is complete and regular upon its face;

44 (2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;

(3) That he took it in good faith and for value;

(4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it."

13. That prior to the commencement of the above-entitled action, the plaintiff duly requested the defendant to repay to it the amount of said draft, to wit, \$3,571.47, but the defendant has failed and refused to pay the same, or any part thereof, to the plaintiff.

Dated, New York, March 2, 1917.

H. SNOWDEN MARSHALL,
*Solicitor and Attorney for Plaintiff, U. S. Attorney
for the Southern District of New York.*

RUSHMORE, BISBEE & STERN,
Solicitor and Attorneys for Defendant.

45

EXHIBIT A.

—
TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
WASHINGTON, January 29, 1913.

CASHIER CHASE NATIONAL BANK,
New York, N. Y.

SIR: A change in the method of making disbursements and handling the receipts of the Government has been decided on by the Secretary of the Treasury which will make necessary a more extended use of national banks as Government depositories. The details of this change are outlined in the attached Treasury circular. In brief, it contemplates that national bank depositories shall have one general account with the Treasurer of the United States and shall pay the checks of disbursing officer when presented in the regular course of business, and charge the same to the Treasurer's general account and forward them to Washington, the same day. In order to provide as many points of payment as can conveniently be done to accommodate payees of the Government, it has been determined to increase the deposit with your bank, should you wish it, to \$200,000. This is done with the understanding that should an account of this size not be required after the plan has been thoroughly tried out, a reduction in your balance will be made. On the other hand, should the

Government business warrant a larger balance with your bank,
46 an adjustment on that basis can also be made. It is the plan of the Secretary to establish the new system on February 1st, and your early decision in the matter will be greatly appreciated.

The security for deposits may include bonds of the following character:

Any United States bonds. Philippine, Porto Rican, District of Columbia, Hawaiian, Philippine Railway Company, and Manila Railroad Company bonds.

Should you decide to accept this proposition to become a depository, you will please notify the Department; and you may also furnish the bonds to secure the deposit at your earliest convenience, when you will be regularly designated under section 5153 of the Revised Statutes.

Respectfully,

(Sgd.)

R. O. BAILEY,
Assistant Secretary.

47

EXHIBIT B.

ALL WARRANTS AND CHECKS TO BE DRAWN ON THE TREASURER OF THE UNITED STATES, PAYABLE BY ANY ASSISTANT TREASURER OR ANY ACTIVE DESIGNATED DEPOSITORY BANK.

1913. Treasury Department,

DEPARTMENT CIRCULAR No. 5,
OFFICE OF THE SECRETARY,
Washington, January 9, 1913.

Treasurer U. S.

To disbursing officers of the United States, Assistant Treasurers, designated depository banks, and others concerned:

For the purpose of bringing the ordinary fiscal transactions of the Federal Government more nearly into harmony with present business practices, it has been determined that the daily receipts of the Government shall be placed with the national-bank depositories to the credit of the Treasurer of the United States. Disbursements will be made by warrant or check drawn on the Treasurer, but payable by national-bank depositories, as well as by the Treasury and sub-treasuries, in accordance with the following regulations:

1. On and after February 1, 1913, every deposit of funds to the official credit of a disbursing officer shall be made with the
48 Treasurer of the United States, except as provided in paragraph 10. All moneys standing to the official credit of disbursing officers with Assistant Treasurers and active designated depository banks at the close of business January 31, 1913, shall be transferred to the official credit of such disbursing officers with the Treasurer of the United States, through the medium of the general account of the Treasurer of the United States.

2. On and after February 1, 1913, all Treasury Department warrants, Post Office Department warrants, disbursing officers' checks, checks in payment of interest on the public debt, and Secretary's

special deposit checks shall be drawn on the Treasurer of the United States, except as provided in paragraph 10.

3. It is contemplated that each active designated depository bank shall pay Treasury Department warrants, Post Office Department warrants, disbursing officers' checks, checks in payment of interest on the public debt, pension checks, and Secretary's special deposit checks, dated on and after February 1, 1913, and drawn on the Treasurer of the United States, when presented in due course of business, under the same conditions as other checks are now paid. Assistant Treasurers and the treasury of the Philippine Islands shall pay all such warrants and checks, observing the same precautions as at present. Warrants and checks so paid shall be charged to the general account of the Treasurer of the United States as a transfer of funds by the bank, Assistant Treasurer, or treasury of the Philippine Islands making the payment.

49 4. Checks and warrants dated prior to February 1, 1913, shall be paid on presentation by the Treasurer, Assistant Treasurer, or designated depository bank on which drawn and charged to the general account of the Treasurer of the United States in the manner prescribed by paragraph 3.

5. Except as provided in paragraph 10, each disbursing officer shall, beginning on February 1, 1913, conduct his business with the Treasurer of the United States in the same manner as he now conducts his business with the Treasurer, an Assistant Treasurer, or an active designated depository bank.

6. Beginning on February 1, 1913, each Assistant Treasurer, each active designated depository bank, and the treasury of the Philippine Islands shall each day schedule and forward to the Treasurer of the United States all warrants and checks paid in accordance with the requirements of paragraphs 3 and 4. The amounts of warrants and checks so paid and forwarded shall be charged in the regular transcripts of the general account of the Treasurer of the United States as transfers of funds.

7. A disbursing officer having in his hands disbursing funds or moneys received as a special deposit, and desiring to deposit the same to his official credit with the Treasurer of the United States, shall make the deposit with the Treasurer, an Assistant Treasurer, or an active designated depository bank. The Treasurer, Assistant

50 Treasurer, or bank shall issue a certificate of deposit in duplicate showing that the deposit is to be placed to the credit of the depositing officer with the Treasurer of the United States. The duplicate certificate will be delivered to the depositing officer. The original will be forwarded by the first mail to the Treasurer of the United States and the amount thereof will be credited in the transcript of the general account of the Treasurer of the United States as a transfer of funds.

8. Deposits to the credit of the Treasurer of the United States on account of revenues or repayments to appropriations shall be made in accordance with existing regulations.

9. All disbursing officers will be supplied with blank checks by the Treasury Department. Any officer not receiving a supply of such checks by February 1, 1913, shall use the supply now on hand, striking out the title of the Assistant Treasurer, or active designated depositary bank and inserting "The Treasurer of the United States."

10. Deposits to the official credit of disbursing officers stationed in the Philippine Islands who at present have no other depositary account shall be made with the treasury of the Philippine Islands as heretofore, and such officers shall draw their checks on the treasury of the Philippine Islands as heretofore. The treasury of the Philippine Islands shall pay checks and warrants drawn on the Treasurer of the United States as provided in paragraph 3.

11. These regulations do not apply to postal funds (except
51 Post Office Department warrants) and court funds deposited under the provisions of sections 995 and 996, Revised Statutes.

FRANKLIN MACVEAGH,

Secretary.

EXHIBIT C.

TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,

Washington, January 18, 1913.

To Assistant Treasurers of the United States, designated depositary banks, and others concerned;

The following instructions are issued supplementary to Treasury Department Circular No. 5, dated January 9, 1913, directing that disbursements be made by warrants or checks drawn on the Treasurer of the United States, payable by any assistant treasurer or any active designated depositary bank.

SPECIAL DEPOSITARY BANKS NOT AFFECTED BY CIRCULAR.

1. Banks designated as special depositaries of public moneys are not affected by the circular. Its provisions apply only to those banks designated as active depositaries.

TRANSFER OF DISBURSING OFFICERS' BALANCES TO CREDIT OF TREASURER
OF THE UNITED STATES.

2. The second portion of paragraph 1 of Circular No. 5
52 requires that this transfer be made at the close of business on January 31, 1913. Each disbursing officer's account will be closed at that time by transfer of the balance to the credit of the general account of the Treasurer of the United States. The aggregate of the balances transferred will be taken up in the transcript of the general account for the period ending January 31, 1913. A

certified list of the balances so transferred will be transmitted to the Treasurer of the United States at the earliest possible moment, so that the Treasurer may use such list as authority for entering the initial credits in the accounts of the several disbursing officers. No action by disbursing officers will be necessary to effect this transfer. Balances of accounts the paid checks for which are not at present sent to the Division of Public Moneys will not be transferred without further instructions.

PAYMENTS OF WARRANTS AND CHECKS DATED PRIOR TO FEBRUARY 1, 1913.

3. Warrants and checks dated prior to February 1, 1913, coming into the hands of an assistant treasurer or active designated depository bank other than the one on which drawn should not be scheduled and forwarded to the Treasurer of the United States, but should be forwarded to the assistant treasurer or bank on which drawn, which alone can make payment on such warrants and checks.

CHECKS DRAWN ON AN ASSISTANT TREASURER OR DESIGNATED DEPOSITORY BANK AFTER JANUARY 31, 1913.

4. Should any disbursing officer, after January 31, 1913,
53 draw checks on an assistant treasurer or designated depository bank with whom he formerly had an account, said checks should be paid by such assistant treasurer or bank in the manner prescribed by paragraphs 3 and 4 of Circular No. 5. The assistant treasurer or bank should, however, at once direct the attention of the disbursing officer to the requirement of paragraph 2 of Treasury Department Circular No. 5 that all checks shall be drawn on the Treasurer of the United States.

INDORSEMENTS ON PAID WARRANTS AND CHECKS.

5. An assistant treasurer, The Treasury of the Philippine Islands, or an active designated depository bank paying a warrant or check under the provisions of paragraph 3 or 4 of Circular No. 5 shall plainly stamp its indorsement on the face of such warrant or check, as follows:

Received payment from
The Treasurer of the United States.
(Date.)

(Bank No.)

(Bank No.)

(Name of assistant treasurer or bank.)

DISBURSING OFFICERS DESIGNATED BY NUMBER.

6. In accordance with the plan set forth in a separate circular, now in course of preparation, a system of numerical symbols has been devised for use in designating disbursing officers, and

54 a number has been assigned to each officer and to each class of warrants, interest checks, and Secretary's special deposit checks, coming within the provisions of Circular No. 5. The symbol number will be printed, stamped, or written in the lower righthand corner of each warrant or check. All disbursing officers are being supplied with new checks, so that the system should be in general use within a short time. A symbol number will be assigned to each former disbursing officer who has checks outstanding and each assistant treasurer and active designated depository bank will be supplied with a list showing the number assigned to each officer when the list is completed. Whenever the symbol number of a disbursing officer or of a class of warrants or checks is known that number should appear on the schedule of warrants and checks paid, both in the recapitulation of payments on the first page of the blank and at the heading of each detailed list of the checks of a particular disbursing officer, or class of warrants or checks. When the numbers are so used the name of the disbursing officer or title of the class of warrants or checks may be omitted at the head of each detailed list, but should appear in the recapitulation.

LISTING OF WARRANTS AND CHECKS ON SCHEDULE.

(Form 11-N. B.)

7. Paid warrants and checks will be listed on Form No. 11-N. B., in duplicate, in accordance with the printed instructions on the blank.

55 The original copy will be forwarded to the Treasurer, accompanied by the paid warrants and checks, arranged in the same order as they appear on the schedule. The duplicate will be retained for the files of the assistant treasurer or bank. Treasury Department warrants should be arranged in one list giving the number, prefixed by the class of warrant, as "Miscellaneous Series," "War," "Indian," etc. Post Office Department warrants constitute one class. There are several classes of checks in payment of interest on the public debt; on each check the class is clearly indicated, as "Consols of 1930," "Philippine loan of 1915-36, public improvement bonds," "District of Columbia 3.65% loan," etc.

BANK NUMBERS UNDER THE NUMERICAL SYSTEM OF THE AMERICAN BANKERS' ASSOCIATION.

8. The form of schedule of warrants and checks paid contains a space for bank number. In this space will be inserted the number assigned to the assistant treasurer or bank under the numerical system of the American Bankers' Association.

DEPOSITS TO AN OFFICER'S OFFICIAL CREDIT UNDER PARAGRAPH 7 OF CIRCULAR NO. 5.

9. When a deposit is received to be placed to the depositing officer's official credit with the Treasurer of the United States, under the

provisions of paragraph 7 of Circular No. 5, a certificate of deposit in duplicate will be issued in the following form:

I certify that-----has this day deposited to the credit of the general account of the Treasurer of the United States-----/100 dollars as a transfer of funds to be placed with the Treasurer of the United States to the official credit of ----- on account of -----, for which I have signed certificates in duplicate.

A supply of forms for this purpose will be furnished, but until such forms are received assistant treasurers will use Form 1710 and banks Form 1-N. B., making alterations to adapt them to the purpose.

DEPOSITS TO THE CREDIT OF SECRETARY'S SPECIAL DEPOSIT ACCOUNTS
NOS. 3 AND 5.

10. When a deposit is received to be placed to the credit of "Secretary's special deposit account No. 3" or "Secretary's special deposit account No. 5" a certificate of deposit in duplicate will be issued in the form prescribed in the preceding paragraph. The duplicate certificate will be delivered to the depositor and the original forwarded to the Treasurer of the United States by the first mail. The amount of the deposit should be credited to the general account of the Treasurer of the United States as a transfer of funds. The certificates of deposit required in such cases by Circular No. 46, dated July 1, 1907, will be issued by the Treasurer of the United States.

DEPOSITS FOR CREDIT OF THE SERVICE OF THE POST OFFICE DEPARTMENT.

11. When a deposit is received to be credited to the account for the service of the Post Office Department, a certificate of deposit in triplicate will be issued in the following form:

I certify that ----- has this day deposited to the credit of the general account of the Treasurer of the United States ----- /100 dollars as a transfer of funds, to be placed with the Treasurer of the United States to the credit of the account for the service of the Post Office Department, for the (month) (half month) or (quarter) ending -----, 191 , for which I have signed certificates in triplicate.

The original copy will be mailed direct to the Auditor for the Post Office Department, the duplicate to the Treasurer of the United States, and the triplicate to the depositing officer. A supply of forms will be furnished, but until such forms are received Assistant Treasurers will use Forms 1705-a and 1705-b, and banks Form 14-N. B., making alterations to adapt them to the purpose.

FORMS DISCONTINUED.

12. On and after February 1, 1913, the use of the following-described forms will be discontinued:

Certificates of deposit: Secretary's special deposit account, No. 1704, Assistant Treasurers; Post Office Department account, Nos.

1705-a and 1705-b, Assistant Treasurers, and No. 1½, national banks; special deposits of customs officers, Nos. 1717-a and 1717-c.

Assistant Treasurers, and 2-a and 2-d, national banks. Transcripts of Secretary's special deposit account:

58 Nos. 1741, Assistant Treasurers, and 3, national banks.

Transcripts of Post Office Department account:

Nos. 1743-a and 1743-b, Assistant Treasurers, and 5, national banks.

R. O. BAILEY,
Assistant Secretary.

EXHIBIT D.

Paid January 31,

3

R. O. BAILEY,
Assistant Secretary,
Treasury Department, Washington, D. C.

Referring your letter January twenty-ninth would deposit be subject to interest; if so, what rate?

CHASE NATIONAL BANK OF NEW YORK.

EXHIBIT E.

THE CHASE NATIONAL BANK,
New York.

(Private wire.)

No. 1600 9 collect.

January 31st, 1913. 191 Time WU Washington, D. C., Jany. 31st, 1913.

Chase.

59 No interest charged on contemplated deposit.

BAILEY,
Asst. Secretary. 234Pm.

Our reply Jan. 31. "Refer your letter 29th, we will accept deposit with pleasure, and will deposit bonds as soon as possible."

CHASE NATIONAL BANK.

EXHIBIT F.

FEB. 1, 1913.

Honorable R. O. BAILEY,
Asst. Secretary, Treasury Department, Washington, D. C.

Sir: Referring to your letter of January 29th, we beg to confirm our telegram of yesterday, advising that we should be pleased to receive the additional deposit mentioned therein, \$199,000. Two hundred thousand dollars of Government bonds to secure this in-

creased deposit will be lodged with the department on Monday, or not later than Tuesday.

We understand that we shall be designated as a regular depositary. Kindly have sent to us the necessary forms and the instructions under which we should act in the handling of this account.

Thanking you for the consideration shown us,

Yours, very truly,

S. H. MILLER, *Vice President.*

EXHIBIT G.

OFFICE OF ASSISTANT SECRETARY,

TREASURY DEPARTMENT,

Washington, February 11, 1913.

CASHIER CHASE NATIONAL BANK, *New York, N. Y.*

SIR: The Treasurer of the United States having advised this office of the receipt from you of \$200,000 bonds furnished in accordance with the authority given you in department letter of Jan. 29, 1913, the designation of your bank is hereby changed from that of a temporary depositary to a depositary for regular purposes and you are authorized to hold a fixed balance of \$200,000 until further advised.

The necessary blanks to be used in connection with this designation have been sent you and your attention is invited to the instructions printed thereon and to those contained in the circulars enclosed herewith.

You are requested to withdraw the \$1,000 U. S. bonds held to secure that amount deposited with you under your designation as temporary depositary. A form for the necessary resolution is enclosed herewith.

Respectfully,

(Sgd.)

R. O. BAILEY, *Assistant Secretary.*

EXHIBIT H.

TREASURY DEPARTMENT,

OFFICE OF THE TREASURER OF THE UNITED STATES,

Washington, February 13, 1913.

To active designated depositary banks:

The following instructions MUST be closely observed to obviate the necessity of returning paid checks, together with the daily schedule (Form 11), to banks for correction and completion.

1. The following indorsement MUST be plainly stamped on the FACE of warrants and checks forwarded to this office with the daily schedule of warrants and checks paid:

Received payment from
The Treasurer of the United States
(Date paid.)
(Bank No.) Name of bank. (Bank No.)
Location.

2. The entry in the space "Date paid," on the schedule, should agree with the indorsement on the FACE of warrants and checks.

3. The form of schedule of warrants and checks paid contains a space for bank number. In this space should be inserted the
62 number assigned to the bank under the numerical system of the American Bankers' Association. Your No. is 1-74.

4. The provision of circular No. 5 which requires that all money standing to the credit of the disbursing officers with Assistant Treasurers and active designated depository banks be transferred to the official credit of such officers with the Treasurer of the United States does NOT apply to postmasters' accounts and court funds deposited under the provisions of sections 995 and 996, Revised Statutes, or to those accounts the paid checks for which have not been heretofore sent to the Division of Public Moneys.

5. The checks of each disbursing officer should be listed in one group by number and amount in chronological and numerical sequence, with the name or symbol number of the disbursing officer appearing at the head of each group.

A total MUST be shown for each group.

6. In the recapitulation by classes and disbursing officers, the amount for each class or disbursing officer should be shown in one line under the caption "Title of group." If the disbursing officer's symbol number appears in the lower right-hand corner of the check, or is otherwise known, it should appear in the column headed "Symbol." If it is not known, the space must be left blank.

Treasury Department warrants constitute one class and but ONE total therefore should appear in the recapitulation.

63 Post Office Department warrants constitute one class.

The interest checks of EACH loan constitute one class.

The grand total of each schedule MUST appear at the end of the recapitulation.

7. Under the caption "Aggregate deposits, transfers, and balances, this day," the item "Deposits to credit of Treasurer U. S." includes funds credited in the Treasurer's general account.

"Transfers of excess deposits" includes transfer of funds made for the purpose of reducing the balance to the authorized limit.

"Balance to official credit of others" includes postmaster's accounts, court funds, etc., mentioned in paragraph 4 of these instructions.

This information MUST be forwarded to this office daily on the schedule (Form 11a) even if no checks are paid. Discontinue sending "Daily Report of Receipts and Disbursements" (Form 24).

8. Always begin the listing and the recapitulation on Form 11a, continuing the listing on 11c and the recapitulation on 11b, when necessary.

9. The spaces on the schedule headed "Examined," "Verified," "Punched," "Posted" and to following blank spaces are NOT to be filled in by the bank.

C. S. PEARCE,
Assistant Treasurer.

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EXHIBIT I.

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, Feb. 18, 1913.

CASHIER CHASE NATIONAL BANK,
New York, N. Y.

SIR: I am advised by the Treasurer of the United States that he has not received any daily schedules from your bank showing that you have paid Government warrants and checks under the provisions of Treasury Department Circular No. 5, dated January 9, 1913, and charged the same to the general account of the Treasurer of the United States, in accordance with the requirements of paragraph 6 of said circular.

It is contemplated that an active designated depository bank will pay all Government warrants and checks drawn on the Treasurer of the United States, when presented in due course of business, under the same conditions and with the same rights and responsibilities as it now pays commercial checks drawn on another bank. It is required by paragraph 6 of Circular No. 5, that warrants and checks so paid are to be scheduled and forwarded to the Treasurer of the United States at Washington daily, the amounts thereof to be charged in the regular transcripts of the general account of the Treasurer of the United States as transfers of funds.

65 It is the intention of the department to so deposit the daily revenues of the Government as to keep each active depository bank supplied with sufficient funds to pay all Government warrants and checks presented, and to keep the balance of its account with the Treasurer of the United States up to the authorized amount. If revenues are not sufficient, funds will be transferred to the bank for that purpose.

Please inform the department whether your bank is now handling any warrants and checks which come within the provisions of Treasury Department Circular No. 5. If so, is it your intention for the future to charge the same to the general account of the Treasurer of the United States and to schedule and forward the warrants and checks to the Treasurer daily?

The department is now making readjustments of deposits with active depositary banks with the view of providing each with a sufficient balance to properly care for its Government business. The daily schedule of warrants and checks paid and forwarded is a good indication of the amount of such business transacted by a particular bank.

Respectfully,

(Sgd.)

R. O. BAILEY,
Assistant Secretary.

66

EXHIBIT J.

FEB. 19, 1913.

Honorable R. O. BAILEY,

ASST. SECRETARY U. S. TREASURY,

Washington, D. C.

SIR: Replying to your circular letter of the 18th inst., we beg to advise that up to the present no checks have been presented for payment at our counter, and such checks and warrants as were received from our correspondents we have collected from the Sub-Treasury here, through the Clearing House, as usual. We understand, however, that it is your intention that we should pay all checks drawn on the Treasurer of the United States, received from our customers, charge them to his account, and forward on the same day. We shall be pleased to do this, beginning tomorrow.

We receive a very large number of items, and we understand that the department supplies envelopes which pass through the mail without postage stamps. If we are correct, kindly have a supply of large envelopes forwarded to us.

We beg to inquire whether the items which we shall send you will be promptly examined upon arrival in Washington and any irregular checks returned the same day. This is quite important to us in our relations with our correspondent banks. We shall be obliged if you will give instructions to the division having this matter in charge, to advise us by wire the non-payment, for any reason, of
67 any checks for \$500 and upwards, stating the name of the last endorser.

The amount of items which we shall forward daily will doubtless exceed by a considerable sum the amount of our deposit, and we will advise you by wire as early in the day as possible the amount of checks we shall forward, and we hope it will be convenient for the Department to notify the Assistant Treasurer in this city to pay us the amount before the close of business.

Very respectfully,

S. H. MILLER,
Vice President.

EXHIBIT K.

ASSISTANT SECRETARY,
TREASURY DEPARTMENT,
Washington, February 21, 1913.

MR. SAMUEL H. MILLER,
*Vice President the Chase National Bank,
New York, N. Y.*

DEAR SIR: Replying to your communication of the 19th instant, you are advised that you will be supplied with official franked envelopes for mailing paid checks to the Treasurer of the United States. In case you have more checks than an ordinary envelope will hold, the official franked envelope may be placed on the outside of the package.

It is intended that the work of examining checks in the Treasurer's office will be so conducted that in case a warrant or check is rejected, the bank from which it was received will be notified not later than the next day after its receipt. The Treasurer of the United States has been notified of your request to be advised by wire in case any check for \$500 or upwards is rejected.

Very truly, yours,

(Sgd.) R. O. BAILEY,
Assistant Secretary.

EXHIBIT L.

Amendment of circular dated January 18, 1913, and letter of instructions of February 13, 1913, relating to checks.

Circular letter.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, May 20, 1913.

To Assistant Treasurer of the United States, designated depository banks, and other concerned:

On January 18, 1913, this office issued a circular of instructions, section 5 of which is as follows:

69 "Indorsements on paid warrants and checks."

5. An assistant treasurer, the treasury of the Philippine Islands, or an active designated depository bank paying a warrant or check under the provisions of paragraph 3 or 4 of Circular No. 5 shall plainly stamp its indorsement on the FACE of such warrant or check as follows:

Received payment from
The Treasurer of the United States.

(Date.)

(Bank No.) (Name of Assistant Treasurer or bank.)

(Bank No.)

The foregoing was later embodied in letter of instructions sent out from the Treasurer's office under date of February 13, 1913, since which time the instructions have been followed by stamping the receipt for payment upon the FACE of warrants and checks.

The stamping of such receipt upon the FACE of such warrants and checks in many cases obliterates the writing and figures so as to interfere with the keeping of accounts in the Treasurer's office. It is therefore ordered that that part of section 5 of the circular issued by this office under date of January 18, 1913, and that part of section 1 of the letter of instructions from the Treasurer's office under date of February 13, 1913, which provides that the indorsement shall be placed upon the FACE of such warrants and checks, be, and the same is hereby, rescinded, and you are instructed to stamp said indorsement, as provided in said circular and letter of instructions, upon the BACK of such warrants and checks, and in such place AS NOT TO OBLITERATE any other writing or figures.

JOHN SKELETON WILLIAMS,

Assistant Secretary.

EXHIBIT M.

(Copy.)

Copy.

HOWARD NATIONAL BANK,

Burlington, Vt., Dec. 31, 1914.

CHASE NATIONAL BANK,

New York City.

GENTLEMEN: On Dec. 15th we sent you in our cash letter a check for \$3,571.47 drawn on the Treasurer of the United States. We have been informed today that the signature on the check was forged, but it was paid on the 18th by the Treasurer and the money has been paid over to the man who presented it here and he has left town. If the Treasurer of the U. S. wishes to charge the check back to you we do not want you to accept it, as so much time has elapsed since they paid it that the forger has had ample time to get away.

71 We are told that he was in Burlington within two or three days and we have reported the matter to the Burns Detective Agency, who will have man here to-morrow to take up the case.

Yours, very truly,

(Signed)

H. T. RUTTER,

Cashier.

EXHIBIT N.

JAN. 2, 1915.

HON. TREASURER OF THE UNITED STATES,
Washington, D. C.

SIR: For your information we beg to hand you herewith copy of communication we have today received from our valued correspondent, the Howard National Bank, Burlington, Vt., relative to a check for \$3,571.47 drawn on the Treasurer of the United States.

Yours, very truly,

W. E. PURDY,
Assistant Cashier.

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EXHIBIT O.

Office of
Treasurer of the United States
in replying quote initials GFA

TREASURY DEPARTMENT,
Washington, January 4, 1915.

CASHIER CHASE NATIONAL BANK,
New York, N. Y.

SIR: With reference to your letter of the 2nd instant, inclosing a copy of a letter to your bank from the Howard National Bank of Burlington, Vermont, relative to check No. 444, drawn on the Treasurer of the United States for \$3,571.47, you are advised that the matter had been taken up with Lt. E. V. Sumner, A. Q. M., Fort Ethan Allen, Vt., by wire, and he has requested the return of the check through the indorsers, for the reason that his signature and indorsement thereon were forged by J. A. Howard, a first-class sergeant in the Quartermaster Corps.

The signature of this check was examined at the time of its receipt from your bank, but the forgery was so well made that it was not detected. The fact that this forgery was not discovered immediately does not relieve the Howard National Bank of Burlington, Vt., which first cashed the check. The original check is being referred to the Secret Service Division of the Treasury Department, by which an investigation will be made and an attempt made to apprehend the forger.

The photographic copy of the check is returned herewith and you are directed to credit \$3,571.47 in your current daily transcript of account with the Treasurer of the United States, on line 3, referring to this letter as your authority therefor. The photographic copy should then be forwarded by you to the Howard National Bank for reclamation of payment.

Respectfully,

(Sgd.)

JOHN BURKE,
Treasurer.
GTA.

PEH
Inclosure.

EXHIBIT P.

JANUARY 8th, 1915.

GFA

HON. JOHN BURKE,

*Treasurer of the United States,
Washington, D. C.*

Sir: Upon receipt of your favor of the 4th instant referring to check #444 drawn on the Treasurer of the United States for \$3,571.47 purporting to be signed by Lt. E. V. Sumner and 74 cashed by our correspondent the Howard National Bank of Burlington, Vermont, we referred the matter to such correspondent and beg to advise you that its president has informed us that his institution cannot accept any responsibility in the premises and declines to sanction our charging the amount of the check to the account of his bank. Under these circumstances it has been necessary for us to go into the matter further.

We have, therefore, considered the situation and have been unable to find any distinction between the situations of the Treasurer of the United States with respect to this check and that of a deposit bank, with respect to a check drawn by its depositor. As you are aware, in the latter case, the bank is charged with knowledge of the signature of its depositor and is, therefore, responsible for any loss resulting from the payment by it of a check upon which the name of its depositor has been forged.

If, however, you consider that the situation of the Treasurer of the United States is different from that of a bank, we shall be obliged if you will give us your views fully upon the point and beg to assure you that they will not only have our careful attention but that we will transmit them to our correspondent, upon whom any loss resulting from the transaction must ultimately fall.

Respectfully, yours.

S. H. MILLER,
Vice President.

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EXHIBIT Q.

TREASURY DEPARTMENT,
Washington, January 12, 1915.

Office of Treasurer of the United States.
In replying quote initials GFA.

CASHIER CHASE NATIONAL BANK,
New York, N. Y.

Sir: With reference to your letter of the 8th instant, relative to check No. 444, drawn on the Treasurer of the United States, for \$3,571.47, purporting to be signed by Lt. E. V. Sumner, Q. M. C.,

you are advised that the endorsement of the name of E. V. Sumner on the check as well as the signature on the face of the check is a forgery.

It has been held by the Comptroller of the Treasury that the received payment stamp of a government depository guarantees prior endorsements and in case any question arises relative thereto, the recourse of this office is to the National Bank depository from which the check was received. In a similar case, the Comptroller of the Treasury has also held that a fraudulent check cannot be considered a government obligation and the holder thereof has no such
76 claim as authorizes the Treasurer of the United States to make payment thereon. Your recourse in this case is to the bank from which you received the check and whose indorsement appears thereon.

It is learned informally from the Secret Service Division that the forger has been apprehended and will be taken to Burlington, Vt., for trial; also that the officers who apprehended him found \$1,400 of the proceeds of this check in his possession, and it is hoped that a large part of the balance may be recovered.

You are therefore directed to credit the amount of this check in your current transcript of account with the Treasurer of the United States on line 3, referring to this letter as your authority therefor.

Respectfully,

PEH

JOHN BURKE,
Treasurer.

EXHIBIT R.

JAN. 15, 1915.

HON. JOHN BURKE,
*Treasurer of the United States,
Washington, D. C.*

SIR: Replying to your letter of the 12th instant, we beg to say that we have carefully considered the suggestions therein contained, with the following result:

77 With reference to the conclusion of the comptroller that the "Received payment stamp of a Government depository guarantees prior endorsements," it is our understanding that such is the rule as between banks. In the case under consideration, however, it appears to us that when a cheque is payable to the order of the maker, the endorsement thereof by the maker for the purpose of giving the same currency is not such an endorsement as comes within the rule. Ordinarily, a cheque is complete when it contains the name of a drawer, a drawee and a payee. When, however, the instrument is payable to the order of the drawer, it is not complete until he endorses it. Accordingly, the next holder of such an instrument bears the same relation thereto that is, ordinarily, borne by the payee, and we respectfully submit that the rule which you mention was

established with respect to endorsements in due course and should not, therefore, be held to apply to other than a second endorsement of an instrument of the character now under question.

With reference to your suggestion that a fraudulent cheque cannot be considered a Government obligation and that the holder thereof has no such claim as authorizes the Treasurer of the United States to make payment thereon, we beg to say that our views are entirely in accord with this general statement and we consider that, if a fraudulent cheque were presented to the Treasurer of the United States, notwithstanding that the holder thereof had obtained the same innocently and for value, no duty would devolve upon the Treasurer to make payment thereof. We submit most respect-

78 fully, however, that such consideration should not apply where the Treasurer has examined a cheque purporting to be drawn by a duly authorized disbursing officer of the United States and accepted the same as genuine, as the result of which the National Bank depository has credited the amount of the cheque to its endorser, and, thereby, changed its position to such extent that, without the consent of its endorser, it can not be made whole, which is the position now occupied by this bank.

Please understand that we find it necessary to dispose of this matter from the standpoint of the legal rights of the parties, because of the fact that the Howard National Bank, at Burlington, Vermont, declines to accept any responsibility in the premises. If the decisions of the comptroller apply directly to the facts in hand, we shall be very glad to give them every consideration to which they are entitled and, notwithstanding the attitude of our customer, to accept such conclusions, if we shall conclude that they are sound. We will, therefore, esteem it a favor if you will forward us copies thereof, in order that we may give them our serious attention.

Respectfully, yours,

H. N. CONKEY, *Cashier.*

79 United States District Court, for the Southern District of New York.

UNITED STATES OF AMERICA, PLAINTIFF,	}
against	
THE CHASE NATIONAL BANK, DEFENDANT.	

The parties hereto hereby stipulate, by their respective attorneys, that for the purposes of the trial of the above entitled action, competent witnesses, if sworn as witnesses for the defendant on such trial, would testify to the following:

That John A. Howard, who forged the signature and endorsement of E. V. Sumner to the check or draft involved in this action, presented the said draft or check to the Howard National Bank for payment at Burlington, Vermont, on December 15, 1914, and received

payment thereof from the said Howard National Bank at said time, the amount of said payment being the face of said draft or check, to wit, \$3,571.47. That, after procuring the payment of said draft or check as aforesaid, the said Howard remained at Burlington, Vermont, until the night of December 17, 1914, when he left by train for Boston, Massachusetts, in company with a woman known as "Violet Lovejoy" or "Violet Lovedale," who had been living at the house of

80 Kirt Stervant, in Burlington, Vermont, for upwards of six months. Kirt Stervant was at the railway station in Burlington, Vermont, when the said Howard and the woman left there and saw them there. The ticket clerk at the railway station in Burlington knew Howard and sold him two tickets for Boston, Massachusetts, for the train which left Burlington on December 17, 1914, at 10.55 p. m., and which was due to arrive in Boston, Massachusetts, at 7.05 a. m., on the morning of December 18, 1914. At the same time, the said ticket clerk sold Howard two Pullman or sleeping car tickets for section 11, of car 14 of the same train. The night baggageman at said railway station in Burlington knew Howard and saw him board said train. He checked for Howard a large black trunk with yellow straps, one such strap on each end thereof, and saw Howard carrying a large leather satchel or bag with a drawer at the bottom. Howard had the trunk and satchel or bag with him when arrested in Winnipeg, Manitoba, as hereinafter stated, on January 6, 1915. Howard was seen by an acquaintance on the main street of Portland, Maine, on December 21, 1914, and stopped at the Falmouth Hotel, in Portland, Maine, with the said woman, from December 19th to December 23rd, 1914, inclusive, under the name of "J. A. Howard and wife." That the said Howard and the said woman were married in Portland, Maine, on December 24, 1914, by C. H. Davis, under the names of "John A. Klaverweiden" and "Violet Marie Lovedale," respectively. Said Howard and his wife visited his mother and half-brother in Chicago, Illinois, from December 26, 1914, to January 1, 1915. His half-brother at that time worked for the Pullman Palace

81 Car Company, at its shops in Pullman, near Chicago, Illinois. Said Howard and his wife left Chicago by train for Winnipeg, Manitoba, on January 1, 1915, and arrived at the last-mentioned place on January 5, 1915. He was followed there by detectives employed by the American Bankers Association, of which the said Howard National Bank was a member, and was arrested there, upon information supplied by said detectives, on January 6, 1915, for the forgery hereinabove mentioned. Thereafter said Howard was returned to Burlington, Vermont, where he pleaded guilty in the United States District Court to the indictment for said forgery and was sentenced to imprisonment in the United States penitentiary at Atlanta, Georgia. When arrested, as aforesaid, in Winnipeg, Manitoba, he and his wife turned over to the authorities who arrested him the sum of \$1,466.00, the portion of the proceeds of said draft or check which he had not spent, which sum was turned over to and is still held by officials of the plaintiff.

And this stipulation may be read on such trial with the same force and effect as if such witnesses then testified as witnesses as aforesaid, subject to objections as to relevancy and materiality.

Dated, New York, March 2nd, 1917.

H. SNOWDEN MARSHALL,
Solicitor and Attorney for Plaintiff,
U. S. Attorney for the Southern District of New York.
RUSHMORE, BISBEE & STERN,
Solicitors and Attorneys for Defendant.

82 Thereupon plaintiff rested and the defendant rested.

Each side thereupon moves for a direction of a verdict.

Thereupon the cause was adjourned over and the jury excused until the 21st day of April, 1917, at which time the cause was adjourned on the said 28th day of March, 1917.

The parties met pursuant to adjournment and the court thereupon directed the jury to bring in a verdict for the defendant, and the jury having been directed so to do, finds a verdict for defendant, as directed.

Plaintiff excepts.

United States District Court, Southern District of New York.

UNITED STATES OF AMERICA, PLAINTIFF, }
VS. }
CHASE NATIONAL BANK.

It is hereby stipulated that the foregoing bill of exceptions be settled and signed as a true and correct record in the form proposed, and that the same be ordered on file by the trial judge herein as part of the record.

FRANCIS G. CAFFEY,
United States Attorney for the Southern District
of New York, Attorney for Plaintiff.
RUSHMORE, BISBEE & STERN,
Attorneys for Defendant.

83 The foregoing constitutes all the evidence and proceedings on the trial of this action and for as much as the exceptions, matters and things would not otherwise appear in the record, I have settled and signed this bill of exceptions on the prayer of the plaintiff by its count, and it is

Ordered, that the same be filed as a part of the record herein, nunc pro tunc as of the day of the trial.

Dated, New York, October 10, 1917.

LEARNED HAND,
United States District Judge.

Assignment of errors.

United States District Court, Southern District of New York.

UNITED STATES OF AMERICA, PLAINTIFF,
 against
 CHASE NATIONAL BANK, DEFENDANT.

Now comes the United States of America, by Francis G. Caffey, United States attorney for the Southern District of New York, its attorney, and makes and files the following assignment of
 84 errors which it alleges occurred upon the trial of this action, and upon which it will rely in the prosecution of its writ of error herein:

1. The court erred in directing a verdict for defendant.
2. The court erred in refusing to direct a verdict for the plaintiff.

Wherefore the United States of America prays that the judgment herein for the manifest errors aforesaid, and for other errors in the record and proceedings herein may be reversed and for naught held and esteemed and that it may be restored all matters and things which it has lost, by reason of said judgment, and that the United States District Court for the Southern District of New York may be directed to enter judgment herein in favor of the United States of America for the relief demanded in the complaint.

Dated, New York, October 30th, 1917.

FRANCIS G. CAFFEY,
United States Attorney for the Southern Dis-
trict of New York, Attorney for Plaintiff.

85

Citation.

By the Honorable Julius M. Mayer, one of the judges of the District Court of the United States for the Southern District of New York, in the Second Circuit.

To the Chase National Bank, greeting:

You are hereby cited and admonished to be and appear before a United States Circuit Court of Appeals for the Second Circuit, to be holden at the borough of Manhattan in the city of New York, in the district and circuit above named, on the 28th day of November, 1917, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Southern District of New York, wherein The United States of America is plaintiff in error and you are defendant in error to show cause, if any they be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the borough of Manhattan, in the city of New York, in the District and Circuit above named, this 30th

day of October, in the year of our Lord one thousand nine hundred and seventeen, and of the Independence of the United States the one hundred and forty-second.

J. M. MAYER,

*Judge of the District Court of the United States for the
Southern District of New York, in the Second Circuit.*

86

Stipulation.

United States District Court, Southern District of New York.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

THE CHASE NATIONAL BANK, DEFENDANT.

It is hereby stipulated and agreed that the foregoing is a true transcript of the record of the said district court in the above-entitled matter as agreed on by the parties.

Dated, Nov. 22, 1917.

FRANCIS G. CAFFEY,

United States Attorney for Plaintiff.

RUSHMORE, BISBEE & STERN,

Attorneys for Defendant.

87

Clerk's certificate.

United States of America, Southern District of New York.

UNITED STATES OF AMERICA, }
Plaintiff, }

VS.

THE CHASE NATIONAL BANK, }
Defendant. }

I, Alexander Gilchrist, jr., clerk of the District Court of the United States of America for the Southern District of New York, do hereby certify that the foregoing is a correct transcript of the record of the said district court in the above-entitled matter as agreed on by the parties.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the Southern District of New York, this 27th day of November, in the year of our Lord one thousand nine hundred and seventeen and of the Independence of the said United States the one hundred and forty-second.

ALEX GILCHRIST, Jr., *Clerk.*

No. 190—October Term, 1917.

Argued February 21, 1918. Decided March 13, 1918.

UNITED STATES OF AMERICA,
Plaintiff in error, (plaintiff below),
against
THE CHASE NATIONAL BANK,
Defendant in error (defendant below).

In error to
the District Court of
the United States for the
Southern District of
New York.
Before WARD,
ROGERS, and HOUGH,
circuit judges.

Writ of error to judgment entered by direction of the court in the District Court for the Southern District of New York.

Lieutenant E. V. Sumner, United States Army, was quartermaster at Fort Ethan Allen, Vermont, and as such a disbursing officer having authority to draw drafts or checks on the Treasury of the United States. Sergeant Howard was his pay clerk, and as such known at a national bank in the near-by city of Burlington. Howard drew on the usual official blank a draft on the Treasurer of the

United States to the order of Lieutenant Sumner, apparently
89 signed by Sumner as Quartermaster, and by him endorsed in blank. In fact Howard forged the name of Sumner both as maker and endorser, and then cashed his forgery over the counter at the said bank in Burlington.

That institution in usual course endorsed the draft to defendant (its New York correspondent), which presented it and received payment from the Treasury. The forgery having been discovered, the United States brought this suit to recover the amount paid—as for a payment made under mistake as to facts. Verdict and judgment having been ordered for defendant on the whole case, this writ was taken.

Joseph A. Burdeau, assistant United States attorney, for plaintiff in error.

Charles E. Rushmore, for defendant in error.

Per curiam:

We have recently pointed out in *United States v. Bank of New York*, 219 F. R., 648, that the United States can no more repudiate its acceptance and recover what its Treasurer paid on a bill with drawer's name forged than can a private person.

The distinction taken on this writ, and said to make a difference in result, is that not only was the drawer's name forged, but so was the endorser's, and it is argued that this first, though forged, endorsement was guaranteed by the presenting bank—this defendant.

But the name used for drawer, payee, and endorser was the same, and of course there was no intent on the forger's part that Lieutenant Sumner should either receive the proceeds of draft or know of its existence; he did intend that the one falsely named as payee should never have any interest in the bill, and such name was inserted as belonging to a man to whom such a draft might naturally be made payable.

Therefore the forged draft was payable to bearer under the negotiable instruments law (in force in Vermont, New York, and District of Columbia), because it was payable to order of a "fictitious or non existing person and such fact was known to the person making it so payable." (Bank v. Vagliano Bros. L. R. (1891) App. Cas., 107; Trust Co. v. Hamilton Bank, 127 App. Div., 515; Snyder v. Corn Exchange Bank, 221 Pa., 599.) Judgment affirmed.

At a stated term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the court rooms in the Post Office Building in the city of New York, on the 23d day of March, one thousand nine hundred and eighteen.

Present: Hon. Henry G. Ward, Hon. Henry Wade Rogers, Hon. Charles M. Hough, circuit judges.

UNITED STATES, PLAINTIFF IN ERROR,

v.

CHASE NATIONAL BANK, DEFENDANT IN ERROR.

Error to the District Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the District Court of the United States, for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged and decreed that the judgment of said District Court be and it hereby is affirmed.

H. G. W.

H. W. R.

It is further ordered that a mandate issue to the said district court in accordance with this decree.

(Endorsed:) United States Circuit Court of Appeals, Second Circuit. U.S. v. Chase Natl. Bank. Order for mandate. United States Circuit Court of Appeals Second Circuit. Filed Mar. 25, 1918. William Parkin, clerk.

United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

vs.

CHASE NATIONAL BANK, DEFENDANT IN ERROR.

The United States of America, the plaintiff in error above named, feeling itself aggrieved by the judgment and order of the United

States Circuit Court of Appeals for the Second Circuit entered herein on the 25th day of March, 1918, in the above-entitled cause, affirming the judgment of the United States District Court for the Southern District of New York herein, hereby prays this court for a writ of error to the United States Supreme Court in this cause, and that the transcript of the record and proceedings and papers upon which the said judgment was made and entered, duly authenticated, may be sent to the said Supreme Court of the United States.

Dated, New York, June 6, 1918.

FRANCIS G. CAFFEY,

*United States Attorney for the Southern District
of New York, Attorney for Plaintiff in Error.*

The writ of error as prayed for in the foregoing petition is hereby granted and allowed this 7th day of June, 1918.

H. G. WARD,

*Judge of the United States Circuit Court
of Appeals for the Second Circuit.*

94 (Endorsed:) U. S. Circuit Court of Appeals for the Second Circuit. United States of America, plaintiff in error, vs. Chase National Bank, defendant in error. Petition for writ of error. Francis G. Caffey, United States Attorney, Attorney for United States. Service of a copy of the within is hereby admitted. Dated New York, June 7, 1918. Rushmore, Bisbee & Stern, attorney for defendant in error. To Rushmore, Bisbee & Stern, attorney for defendant in error. United States Circuit Court of Appeals, Second Circuit. Filed June 8, 1918. William Parkin, clerk.

95 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

v.

CHASE NATIONAL BANK, DEFENDANT IN ERROR.

Now comes the United States of America by Francis G. Caffey, United States attorney for the Southern District of New York, its attorney, and says that in the record and proceedings in the above entitled cause there is manifest error in this, to wit:

I. The United States District Court for the Southern District of New York erred in directing a verdict for defendant.

II. The United States District Court for the Southern District of New York erred in refusing to direct a verdict for the plaintiff.

III. This court erred in affirming the judgment of the United States District Court for the Southern District of New York, entered herein on the 14th day of May, 1917, and in not reversing the same.

IV. This court erred in holding and deciding that the forged instrument mentioned in the complaint herein, purporting to be a draft drawn upon the Treasurer of the United States for the sum of \$3,571.47, was payable to bearer under the negotiable instrument law

because it was payable to order of a "fictitious or nonexisting person and such fact was known to the person making it so payable."

96 Wherefore, the United States of America prays that the order and judgment of this court, affirming the judgment of the United States District Court for the Southern District of New York, and that the judgment of the United States District Court for the Southern District of New York for the errors aforesaid and for other errors in the record and proceedings herein may both be reversed and for naught held and esteemed and that it may be restored to all claims that it has lost by reason of such orders and judgments.

Dated, June 6, 1918.

FRANCIS G. CAFFEY,
United States Attorney
for the Southern District of New York,
Attorney for the United States of America.

97 (Endorsed:) U. S. Circuit Court of Appeals for the Second Circuit. United States of America, plaintiff in error, v. Chase National Bank, defendant in error. Assignment of error. Francis G. Caffey, United States attorney, attorney for United States. Due service of a copy of the within is hereby admitted. Dated New York, June 7, 1918. Rushmore, Bisbee & Stern, attorney for deft. in error. to Rushmore, Bisbee & Stern, attorneys for deft. in error. United States Circuit Court of Appeals, Second Circuit. Filed Jun- 8, 1918. William Parkin, clerk.

98 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, William Parkin, clerk of the United States Circuit of Appeals for the Second Circuit, do hereby certify that the foregoing pages numbered from 1 to 97, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of United States against Chase National Bank as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the Southern District of New York, in the Second Circuit, this 10th day of June, in the year of our Lord one thousand nine hundred and eighteen and of the independence of the said United States the one hundred and forty-second.

[SEAL]

WM. PARKIN, *Clerk.*

99 By the Honorable H. G. Ward, one of the judges of the United States Circuit Court of Appeals for the Second Circuit.

TO THE CHASE NATIONAL BANK,
Defendant in Error.

You are hereby cited and admonished to be and appear before the Supreme Court of the United States at the Capitol in the city of

Washington, D. C., within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the United States Circuit Court of Appeals for the Second Circuit wherein the United States of America is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment or order in said writ of error mentioned should not be corrected and speedy justice done in that behalf.

Given under my hand in the borough of Manhattan, city of New York, in the circuit above named, on the 7th day of June, in the year of our Lord one thousand nine hundred and eighteen and of the independence of the United States the one hundred and forty-second.

H. G. WARD,

*Judge of the United States Circuit Court
of Appeals for the Second Circuit.*

100 (Endorsed:) U. S. Circuit Court of Appeals for the Second Circuit. United States of America, plaintiff in error, vs. Chase National Bank, defendant in error. Citation. Francis G. Caffey, United States attorney, attorney for United States. Service of a copy of the within is hereby admitted. Dated New York, June 7, 1918. Rushmore, Bisbee & Stern, attorneys for deft. in error, to Rushmore, Bisbee & Stern, attorneys for deft. in error.

101 UNITED STATES OF AMERICA, ss:

The President of the United States of America, to the honorable, the judges of the United States Circuit Court of Appeals for the Second Circuit, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said United States Circuit Court of Appeals for the Second Circuit, before you, or some of you, between United States of America, plaintiff in error, and Chase National Bank, defendant in error, manifest error hath happened, to the great damage of the said United States of America, as by its complaint appears,

We, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf,

Do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, D. C., within thirty days from the date thereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness, the Honorable Edward D. White, Chief Justice of
102 the United States, the 7th day of June, in the year of our Lord

one thousand nine hundred and eighteen and of the independence of the United States the one hundred and forty-second.

[SEAL.]

WM. PARKIN,
*Clerk of the Circuit Court of
Appeals for the Second Circuit.*

The foregoing writ is hereby allowed.

H. G. WARD,
U. S. Circuit Judge.

103 (Endorsed:) U. S. Circuit Court of Appeals for the Second Circuit. United States of America, plaintiff in error, vs. Chase National Bank. Writ of error. Francis G. Caffey, United States attorney, attorney for United States. Service of a copy of the within is hereby admitted. Dated New York, June 7, 1918. Rushmore, Bisbee & Stern, attorneys for deft. in error, to Rushmore, Bisbee & Stern, attorneys for deft. in error. Filed June 8, 1918. William Parkin, clerk.

(Indorsement on cover:) File No. 26588. U. S. Circuit Court Appeals, 2d Circuit., Term No. 502. The United States of America, plaintiff in error, vs. The Chase National Bank. Filed June 13th, 1918. File No. 26588.